

**STATE MANAGEMENT PLAN
FOR SECTION 5311-TRANSIT
ASSISTANCE TO SMALL
URBAN & RURAL AREAS**

**STATE OF INDIANA
Mitchell E. Daniels Jr., Governor**

**INDIANA DEPARTMENT OF TRANSPORTATION
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Indiana Department of Transportation
Transit Office
100 North Senate Avenue
Indianapolis, Indiana 46204
317/232-1483
317/232-1499 (FAX)

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PREFACE

The Section 5311 State Management Plan is designed to assist current and potential grant recipients in fulfilling the various requirements of receiving federal financial assistance in accordance with the Federal Transit Administration (FTA) Circular 9040.1F. The FTA provides limited federal financial assistance to support the operation and capital investment needs of public transportation systems in rural and small urban areas. Its purpose is to outline the Indiana Department of Transportation's (INDOT's) plan for administering the Section 5311 program and as a source of guidance to current grantees and interested parties.

Inquiries concerning the Section 5311 Program should be directed to:

ATTN: Program Manager
Indiana Department of Transportation
Division of Local Programs
Transit Office
100 N. Senate Avenue
Indianapolis, Indiana 46204

SECTION I: PROGRAM BACKGROUND

INTRODUCTION

This Management Plan explains the policies and procedures used by the Indiana Department of Transportation (INDOT) to implement the Section 5311 program. In 1978 the United States Congress passed the Surface Transportation Assistance Act (STAA) which amended the Federal Transit Act. The STAA added 49 U.S.C. Section 5311 which established a program (for the first time) to provide federal grant assistance to rural and small urban areas for public transportation. Each state and US Territory is allocated Section 5311 funding, which is administered by that state's Governor or Territory's Administrator. The Governor of Indiana has designated the Indiana Department of Transportation as the agency responsible for administering this assistance.

Section 5311 funding can be used for capital and/or operating assistance to public transportation operators, nonprofit agencies, local public bodies, or state agencies. Also, INDOT may use Section 5311 funding for its administrative costs and to provide technical assistance.

INDOT recommends that current grantees and potential applicants review this plan and other program related materials prior to applying for a grant. In addition, INDOT encourages prospective applicants to meet with INDOT Transit staff early in the planning stage to discuss grant projects. INDOT has found that pre-planning meetings can improve the applicant's understanding of program requirements. First time applicants must complete a feasibility study in order to apply for funding assistance. A feasibility study project period is based on a calendar year (January – December). Based on funding availability, applicants who have completed an approved feasibility study will be eligible to apply for funding assistance the following calendar year. Each new system will be established as a demonstration project that INDOT is not obligated to fund beyond two years. INDOT will review the consistency between an applicant's feasibility study projections and two years data on vehicle miles, operating expenses, and passenger trips.

A. PROGRAM GOALS AND OBJECTIVES

1. Program Goal - The goal of Indiana's transportation system includes providing transit service throughout the state to meet the needs of transit users. The State's role in the delivery of transit service is supported by the Section 5311 Program which provides operating and capital assistance, and program assistance for the Intercity Bus transportation program and the Federal Rural Transportation Assistance Program (RTAP). The mission of the Indiana Department of Transportation's Office of Transit is to help people and communities meet their mobility needs by supporting safe, responsive, efficient and environmentally sound transit services.

2. Program Objectives

- a. Increase availability of public transit for Indiana's population that enhances access to health care, shopping, education, employment, public services, and recreation.
 - b. Encourage and support increased coordination of transit service with various public resources that maximizes transportation efficiencies and benefits for Indiana.
 - c. Alleviate transportation barriers as well as improve mobility opportunities for elderly persons, people with disabilities, economically disadvantaged persons, and any other populations that may have transportation disadvantages.
 - d. Implement cost effective strategies and performance measures for subrecipient transit systems that maximize the Federal and State investment in transit.
 - e. Maintain a state commitment to public transportation.
 - f. Manage federal transit programs to ensure subrecipient compliance with pertinent federal and state regulations.
 - g. Provide necessary planning and technical assistance to subrecipient transit systems to ensure success with meeting local transit needs.
 - h. Ensure a successful Intercity Bus program which promotes the participation of private providers in both the development and provision of transit services in Indiana.
3. INDOT Long Range Planning Process - The INDOT planning process is constantly looking for and receiving comments and input from citizens, elected officials and transportation professionals for its Long Range Plan and updates. INDOT's Long Range Transportation Planning staff has the responsibility to maintain and update the Long Range Plan. This requires the staff to monitor current transportation conditions and forecast future needs of the State. The use of the Annual Program Development Process (APDP), corridor studies, and technical planning tools are useful methods employed by staff to understand the needs and concerns of the public and the technical demands of the state's transportation network.

B. ROLES AND RESPONSIBILITIES

1. Federal Transit Administration - The Federal Transit Administration (FTA) is the federal oversight agency. The FTA headquarters office in Washington, D.C. is responsible for: providing overall policy and program guidance for the Section 5311 program; allocating funds annually to the States; developing and implementing financial management procedures; initiating and managing

program support activities; and conducting national program review and evaluation.

The FTA Region V Office in Chicago is responsible for the day-to-day administration of the program. Regional office activities include: reviewing and approving state grant applications; obligating funds; working with states to implement the annual program; receiving state certifications and revisions to the program of projects; review and approval of State Management Plans; oversight of state management responsibilities; and overall grant management.

2. INDOT - INDOT has been designated by the Governor of Indiana as the agency responsible for administering the Section 5311 program. INDOT's responsibilities include a fair and equitable distribution of funds, adhering to federal and state program guidelines, notifying eligible applicants about the availability of the program, developing program criteria, soliciting applications, and monitoring and improving coordination of public transportation services at the local and state levels. INDOT will certify eligibility of applicants, review applications, select applications for approval, monitor grants, ensure that audits are performed on all Section 5311 grants, and close out projects. INDOT is also responsible for providing management oversight and appropriate technical assistance for non-urbanized areas.
3. Applicant - The applicant, (as described in Sec. I, Part B) is responsible for developing the grant application and supporting documentation as required by INDOT. The applicant must assess and identify the transit need, plan an appropriate transit system, and establish the funding plan. The applicant may directly operate the transit system or contract for service with a private for-profit or nonprofit provider. In either case, the applicant is responsible for: compliance with program requirements (federal and state); project management and management oversight; monitoring budgets, service, and subcontracts; ongoing service planning; and ensuring that audits are performed in accordance with INDOT requirements. Under a purchase of service arrangement, the applicant must enter into a contract with the transit provider before expenditures may be reimbursed by INDOT under a grant contract. INDOT requires that any applicant contemplating a purchase of service arrangement procure those services competitively.

C. COORDINATION

1. Interagency Cooperation Group - INDOT has established an Interagency Cooperation Group (ICG) to facilitate cooperation and coordination between other state administered transportation programs and the Section 5311 program. The purpose of establishing this group is twofold: (1) to assist and advise INDOT in the review and selection of Section 5311 grant applications, and (2) to provide a forum for discussing strategies and policies that may assist INDOT in achieving its program goals.

The group consists of representatives from each state agency that have responsibility or direct statutory authority for transportation related activities. The ICG is comprised of the following members:

Family & Social Services Administration – Division of Family Resources
Family & Social Services Administration – Division of Aging
Family & Social Services Administration – Division of Disability & Rehabilitation Services
Indiana Department of Transportation/Transit Office – 5311 Program Manager (Chair Person)
Indiana Department of Transportation/Transit Office – 5311 Project Managers (2)
Indiana Department of Transportation/Transit Office – Transit Planner
Rural Transit Assistance Program (RTAP) – Coordinator

2. Social Service Involvement - Many rural areas do not have "for-profit" service providers but almost all have some form of social service transportation service, or non-profit providers. Efforts must be made to encourage these providers to participate in and coordinate with the project.
3. Public Involvement - Public involvement is essential to providing a service that addresses community needs. Efforts to involve the public should be made. INDOT strongly encourages applicants to establish a local Transportation Advisory Committee (TAC) or board. The local TAC is expected to encourage private sector participation and to afford an opportunity for input in plan developments. For capital grants public hearings are required.
4. Transportation Improvement Plans - Section 5311 transit systems which are located within metropolitan planning boundaries must submit their transit projects to the applicable Metropolitan Planning Organization (MPO) for inclusion in the current Transportation Improvement Program (TIP). Guidance is provided in 23 CFR Part 450 and 49 CFR Part 613.

D. ELIGIBLE SUBRECIPIENTS

Eligible subrecipients consist of those entities eligible to receive funding directly from INDOT and must be a unit of government authorized under state law to provide and carry out local public transportation projects. The projects must be in a non-urbanized area.

Eligible Applicants

Eligible applicants of Section 5311 funds from INDOT are limited to units of government authorized under state law to provide and carry out a local public transportation project. Eligible applicants include the State of Indiana, counties, cities, or towns. Additionally, Public Transportation Corporations (PTC) established under Indiana Code 36-9-4-12; Regional Transportation Authorities (RTA) established under I.C. 36-9-3-2; or Regional Planning Commissions established under I.C. 36-7-7 to provide public transportation service and facilities may also be recipients.

Pass-Through Recipients

The Federal Transit Administration (FTA) permits states to use an eligible recipient as a "pass-through" in order to provide project funds to another eligible recipient when the lower tier recipient would also be an eligible recipient. In this case, the arrangement is not a third-party contract but a pass-through (e.g. the state awards funds to a public agency that in turn gives the funds to an otherwise eligible recipient). Thus, FTA allows the state to pass-through funds to private non-profit agencies as long as those agencies are considered eligible recipients.

Private non-profit and private for-profit operators of transit services may participate in the INDOT Section 5311 program as third party (lower tier) contractors for grantees or eligible recipients. Additionally, INDOT permits non-profit organizations to be pass-through recipients provided that the eligible public agency: 1) acts as the grant recipient; 2) is the responsible party for invoice submission; 3) receives all payments from INDOT; and 4) holds the title to all capital equipment that may be acquired under a Section 5311 grant.

It is at the discretion of the eligible applicant to choose the best mechanism for administering and operating rural transit service in their area, but any pass-through agreement must have prior INDOT concurrence. **(EXHIBIT 4)**

Although a competitive procurement is not required in this situation, INDOT strongly recommends that the eligible applicant conduct an analysis to ensure that the funds provided for the service are being used in a cost effective and efficient manner.

E. ELIGIBLE SERVICES AND SERVICE AREAS

1. Eligible Rural Public Transit Service - Any transportation service provided by bus, shared-ride taxi, or other publicly or privately owned conveyance, which serves the general public on a regular basis in primarily nonurbanized areas. Eligible projects may constitute an entire public transit system, a particular service or function within that service, or an individual route or route segment. Service may include the transportation of non-urbanized residents to and from urbanized areas. However, such services should not include pick-up and discharge operations within the urbanized area, particularly if the urbanized area is served by public transit. If Section 5311 funds are used in a joint urbanized and non-urbanized project, Section 5311 funds must be used primarily to assist the non-urbanized portion of the project.
2. Services not eligible for assistance - Any exclusive ride taxi service and service to individuals or groups which exclude use by the general public.

F. ELIGIBLE ASSISTANCE CATEGORIES

1. Capital Grants - INDOT will make Section 5311 assistance funds available for capital expenses, which generally include the acquisition, construction and

improvement of public transit facilities and equipment. The Section 5311 share may not exceed 80 percent of the net capital cost. Examples of eligible capital expenses included, but are not limited to:

- a. Buses, vans, or other para-transit vehicles;
- b. Radios and communications equipment;
- c. Passenger shelters and bus stop signs;
- d. Wheelchair lifts and restraints;
- e. Vehicle rehabilitation;
- f. Operational support such as computer hardware and software;
- g. Spare parts with a unit cost over \$300 and/or a useful life of more than one year; and
- h. Construction or rehabilitation of transit facilities including design, engineering, and land acquisition

Intercity Bus - Section 5311(f) funds are also available for the above capital expenses, up to the same federal share. In addition, intercity capital grants may include planning and marketing projects.

2. Operating Grants - INDOT will provide Section 5311 funds for operating expenses related to providing transit services. The Section 5311 share may not exceed 50 percent of the net operating expenses. Net operating expenses are defined as the difference between the total eligible operating expenses and operating income generated from the public transit service. Examples of eligible operating expenses are: salaries and wages, fringe benefits, purchase of transit service contracts, fuel, oil, lubricants, replacement parts, tires, vehicle insurance, and licenses.

Intercity Bus-Section 5311(f) funds are also available for operating projects. Eligible activities include, but are not limited to: purchase-of-service agreements, user-side subsidies, demonstration grants, and coordination of small urban/rural transit operations and intercity bus carriers.

INDOT has the option of treating some expenses as grantee project administrative expenses. Expenses such as insurance and office rental are considered administrative. INDOT established a policy to fund all expenses related to Intercity operations at up to 50 percent federal share. This decision was made in order to stretch the federal funding.

Eligible capital, operating and intercity expenses are discussed in detail in the grant application packages available from INDOT.

G. LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS

The applicant must provide local funding for a Section 5311 grant. The local share must be from non-FTA sources of funding, and can include any local or state sources, or unrestricted federal/state funds. A list of unrestricted

federal/state funds eligible as match under Section 5311 may be found in Vol. I, Attachment II-3 of the Section 5311 Program Manual or requested from INDOT.

1. At least one half (50%) of the local share must be provided in cash or cash equivalent from sources other than unrestricted federal/state funds for operating projects and twenty (20%) for capital projects. Contract revenues from a purchase of transit service agreement funded by unrestricted federal/state funds, may be used as the local cash share. Examples of local share which constitute cash include:
 - a. Local grants, appropriations, and dedicated tax revenues.
 - b. Income derived from purchase of service contracts, including contracts where the purchaser utilizes unrestricted federal/state funds to finance the purchase of transit service. Community Services Block Grant (CSBG) funds received by local agencies falls under this category and is considered local "cash" funding.
 - c. State funds from the Public Mass Transportation Fund (PMTF): The PMTF is a dedicated fund derived from 0.67 percent of the state's general sales and use tax. It is administered by INDOT and it can match up to the total sum of the locally derived income of an approved capital or operating grant. **New starts are eligible for state PMTF assistance ONLY after completing their two year demonstration period and INDOT has reviewed the two year data.**
 - d. Other state funds eligible to match federal funds: For other state funds to be used as match, they must be approved by the appropriate state grantor agency.
 - e. In-kind contributions (cash equivalent) as defined in 49 CFR PART 18 - Uniform Administrative Requirements for Grants And Cooperative Agreements to State And Local Governments (Vol. II, Appendix B).

It has been INDOT's experience that local commitment to a project in the form of local cash, remains one of the most crucial elements to the success of public transit service. Without local cash it is hard to determine the relative importance of public transit when compared to other local services and to assess whether the service would survive if federal funding is decreased. To emphasize this point, INDOT intends to use Section 5311 to augment and enhance existing revenue sources and will not fund projects that simply replace existing revenues with Section 5311 and state funds.

H. PROJECT SELECTION CRITERIA AND METHOD OF DISTRIBUTING FUNDS

1. Federal Apportionment of Funds - The Federal Transit Administration (FTA) apportions Section 5311 funds to each state by a federal congressionally mandated population formula. The formula is determined by the ratio of each state's non-urbanized population to the total non-urbanized population of all

50 states plus U.S. territories. The data used in the formula are from the most current census report.

2. State Allocation of Funds

- a. INDOT Administrative & Technical Assistance Funding - Up to 15 percent of the state's annual apportionment may be assigned to administer the program and provide technical assistance to applicants and existing transit systems. Technical assistance may include project planning and development, management and operations, maintenance, and coordination of public transportation resources and programs (public and private). INDOT's technical assistance program is explained in more detail later in this section. Any unused funds are transferred to program reserve.
- b. Discretionary Funding - Up to 10 percent of the state's annual apportionment may be used for discretionary funding. This funding may be available for the following: (1) feasibility studies (2) new applicants requesting operating assistance and (3) capital grants that cannot be funded through their formula allocation amount. Any unused funds are transferred to program reserve.
- c. Public Transit Project Funding - The remaining percentage of the annual apportionment is allocated to existing grantees by a formula. The funding is allocated as follows: the Service Area Population has a 30 percent (weight factor), Annual Passenger Boardings a 30 percent (weight factor) and Locally Derived Income (LDI) a 40 percent (weight factor). All three data sources are chosen to provide stability to the formula. To improve funding dependability and predictability, the passenger boardings and LDI data are averaged for the most current three year period.

Population was chosen and weighted at 30 percent to provide a base allocation to all grantees. It is a stable and predictable allocation factor.

Passenger Boardings was chosen and weighted at 30 percent to encourage grantees to maintain and improve passenger boarding levels. INDOT considers this a foundational objective of all transit services.

LDI was chosen and weighted at 40 percent to encourage stable or increasing levels of local funding. The higher weighting for LDI represents INDOT's emphasis on local funding support for transit services. LDI includes fare revenues, local appropriations, unrestricted federal/state funds (i.e., federal/state funds eligible to match Section 5311 funds) and cash grants. LDI does not include contra-expenses (e.g., expense refunds such as, motor fuel tax) or in-kind volunteer labor services.

A grantee's allocation amount may be used for capital and/or operating assistance grants. Eligible assistance projects are discussed later in the plan.

EVALUATION CRITERIA FOR GRANTS

1. Operating Assistance

a. Existing Grantees:

Existing grantees (those applicants currently receiving Section 5311 funds) have already demonstrated satisfactory effort to operate their transit system according to INDOT's guidelines. As such, the criterion used by INDOT to evaluate existing Section 5311 grantees is the completeness and adequacy of their application. A checklist is used to verify that all pertinent items are submitted, complete and adequate. INDOT, with contract assistance, performs compliance reviews every four years or as circumstances warrant.

b. First-time Applicants:

First-time applicants are those who have never received Section 5311 funding. A feasibility study must be completed to be eligible to apply for Section 5311 funding assistance. **EXHIBIT 1** is the feasibility study rating form. At a minimum, first-time applicant's feasibility study must address the following ten (10) evaluation factor criteria:

- (1) Completeness of study;
- (2) Identification of the need for public transit service;
- (3) Identification of potential trip generators;
- (4) Calculation of service demand (peak & off peak);
- (5) Identification of the most appropriate type of service;
- (6) Identification of capital requirements needed to meet demand;
- (7) Identification of proposed public transit service provider;
- (8) Identification of projected operating costs;
- (9) Determination of degree of long-term local community support and
- (10) Identification of marketing effort required for start-up.

c. New Applicants: (Funding for new applications is based on funding availability.)

New applicants are those who have completed an approved feasibility study and are now eligible to receive Section 5311 funding. INDOT and the Interagency Cooperation Group (ICG) will review applications. Seven (7) evaluation factor criteria are weighted according to importance in fulfilling program goals. **EXHIBIT 2** is the new applicant operating application review and rating form. The new applicant application criteria include the following:

- (1) The completeness of the application and compliance with guidelines and requirements of the application process.

INDOT expects, at a minimum, that applicants submit a complete grant application. Failure to adequately address every requirement will adversely affect the rating of the grant and may eliminate the grant from further consideration. INDOT intends to concentrate review time on the merits and technical aspects of an application and not on compiling missing or inadequate information. INDOT transit staff are available to assist applicants with the application process.

- (2) The degree of local demand and local financial support for the project.
- (3) The ability of management to administer the grant and meet INDOT's program guidelines and requirements and operate a transit system.

New applicants will be evaluated on previous experience with similar grant programs, management structure, and accounting system. The ability of a new applicant to operate a transit system will be evaluated based on the proposed organizational structure of the system, the experience of personnel required to perform system functions, and the applicant's past experience in operating transportation service.

- (4) The extent to which existing area-wide services, manpower, and equipment are used in the project.

INDOT requires that applicants make every effort possible to coordinate available resources under operating and capital grants. Applicants must encourage every possible transportation provider (including private-for-profit) to participate in the project. Successful coordination would include the commitment of other local agencies to purchase service, share resources, and use the transit system. New applicants will be evaluated based on the amount of coordination expected and planned for in the proposed transit system. If other providers are not interested in participating in the project, then the applicant must develop a transit system compatible with the other providers.

- (5) The appropriateness of type of service, planned improvements, expansion, and equipment.

The development of a transit system must be carefully planned and explained because the proposed cost and the projected productivity are functions of the type of service established to meet the mobility needs. The applicant should make these decisions only after careful and appropriate consideration of the purpose and expectations for the service. If the purpose and expectations are not clearly defined, it will be impossible for the applicant to determine if the service is successful.

The grant justification should show the relationship between the transit service and the identified mobility needs and service area characteristics (e.g., geography, traffic patterns, population density, etc.). The applicant must make every reasonable effort to ensure that elderly and persons with disabilities will be able to use the public transit service.

The appropriateness of the type of service will be reviewed in part based on the following criteria:

(a) Fixed Route Service:

- [1] Service area has few main activity centers, central business district is usually the primary activity center;
- [2] Trip needs may be met through fixed schedules;
- [3] Trip needs may be met by service over major streets;
- [4] Service area has relatively high population density; and
- [5] Users have convenient access to routes

(b) Demand Responsive Services (including Dial-a-Ride, advanced request and shared-ride taxi):

- [1] Trip needs are dispersed throughout the service area and throughout the day;
- [2] A significant proportion of users are those who have difficulty walking and standing (e.g., getting to fixed route type services); and
- [3] Service area has relatively low population density

New applicants will be evaluated based on the appropriateness of the type of service in terms of the aforementioned criteria and on type of equipment to be used in relationship to the demand for service. Careful

consideration will be given to assessing the methods used by the applicant in selecting a particular type of service.

- (6) The actions previously implemented and/or planned to reduce operating costs and to improve operating revenue.

Since operating revenues do not cover total costs, it is imperative that management makes every effort to keep costs low. This is extremely important in view of the limited amounts of governmental assistance available to finance transit. The applicant's ability to increase operating and other revenues will directly improve the financial stability of the transit system by decreasing its dependency on governmental assistance. The applicant must give consideration to an appropriate revenue recovery program for its transit system.

New applicants will be evaluated based on the reasonableness and appropriateness of expenses and revenue sources in relation to service characteristics. INDOT highly recommends that a formal fare structure be established.

- (7) The suitability of the existing and/or proposed promotional techniques and programs to reach riders and potential riders.

New applicants will be evaluated based on the appropriateness of planned marketing, public information, and promotional programs. These planned programs will be evaluated in relationship to objectives for reaching and maintaining projected ridership levels. At a minimum, INDOT expects each applicant to design some basic public information (i.e., bus schedules, ride guides, etc.) and also develop a proposal for its dissemination.

2. Capital Assistance

Similar to applying for operating assistance, the capital assistance application is evaluated according to several weighted factors. The weights of the factors represent the importance of the factor in achieving program goals. **EXHIBIT 3** is the Capital Application Review and Rating Form that is used to evaluate capital assistance requests. The capital application review criteria include the following:

a. Project Justification:

Are vehicle or equipment requests appropriate? (i.e. does the vehicles mileage information justify replacement?) Are facilities, expansion, or equipment necessary for continued and/or improved operation?

In regard to vehicle replacements, it is critical for approval that sufficient information on mileage, age and condition of vehicles is provided. For guidance on determining the useful life of transit vehicles, please refer to Section V. Uncertainty in federal funding necessitates that the major emphasis for capital assistance be on replacement vehicles. Projects will be prioritized for eligibility as follows:

- (1) Replacement passenger vehicles for existing grantees;
- (2) Replacement of major equipment or maintenance items for existing grantees;
- (3) Passenger vehicles for expanded services for existing grantees and new applicant capital requests;
- (4) Rehabilitating facilities; and
- (5) Construction of new facilities

INDOT will consider projects for new facilities and expansion or rehabilitation of existing facilities. A project of this type must be clearly justified. For example, in the case of a facility expansion project, a transit property may decide to wash buses in-house rather than pay for a third party service. This decision will require the addition of a bus wash bay to the transit facility. To justify this project, the applicant must provide documentation that it is more cost-effective to wash buses in-house.

- b. The ability of management to administer the grant and meet INDOT's guidelines and requirements.

INDOT expects all applicants to demonstrate that they will administer their capital grants in accordance with INDOT prescribed guidelines. In particular, INDOT will look for staff with experience or access to personnel with experience in the fundamental aspects of procuring vehicles, equipment, and other capital assets; and in scheduling and implementing construction projects, if applicable.

- c. Extent to which existing area-wide services, manpower and equipment are used in the project.

This criterion will be evaluated in terms of how well the applicant has developed cooperative relationships with other agencies involved in providing transportation or other services which involve the use of resources similar to those required by the transit system. All capital projects will be reviewed in terms of the availability of opportunities to fulfill capital needs through cooperative relationships and sharing resources with outside agencies.

- d. Completeness of the application and compliance with guidelines and requirement of the application process.

All applications must be complete, information must be adequate for INDOT to evaluate the value and need for the project.

All applicants are required to submit Title VI documentation with each project. INDOT monitors subrecipients to make sure there have been no civil rights complaints filed against the transit system since startup. Transit systems are required to post the Civil Rights Act of 1964 in the workplace where the workers can view it.

Applicants whose service area is within a Metropolitan Planning Organization's (MPO's) planning jurisdiction must provide its capital and operating projects for inclusion in the MPO's Transportation Improvement Program (TIP), approved by the MPO and the Governor and in a Statewide Transportation Improvement Program (STIP) that has been approved by FTA and the Federal Highway Administration (FHWA)

I. INTERCITY BUS TRANSPORTATION

INDOT is required to spend 15 percent of the Section 5311 apportionment to carry out a program for the development and support of intercity bus transportation. This percentage set-aside is effective unless the Governor certifies that the intercity bus service needs of Indiana are being adequately met.

Funding must support intercity bus service in small urban and rural areas. Eligible activities include, but are not limited to: planning and marketing; capital grants for shelters, joint-use stops and depots; operating grants through purchase-of-service agreements, user-side subsidies, demonstration grants, and coordination of small urban/rural transit operations and intercity bus carriers.

Federal guidelines require the State to advertise the availability of these funds, review potential projects for compliance with federal and state criteria and fund those projects which are viable. Indiana undertakes extensive efforts to promote the availability of funding offered through the Section 5311(f) program. INDOT will solicit projects in the Spring by written notification and posting notices in local newspapers around the state.

In the Fall, INDOT provides the opportunity for public comment regarding the unused intercity funds by publishing a public notice in all major newspapers in Indiana and notifying via mail private intercity carriers providing service in Indiana. The public comment period is fourteen days. If no written or verbal comments are received in response to these notices, a letter from the Governor certifies that the intercity bus service needs of Indiana are being adequately met, and any unused funds are transferred to program reserve. Charter and tour services are not eligible for this assistance in accordance with federal regulation 49 CFR PART 604.

J. ANNUAL POP DEVELOPMENT & APPROVAL PROCESS

Review Process

It is important to note that the application review process is designed to identify projects of exceptional quality. Documented efforts to operate the transit system in the most effective and efficient manner possible, secure local sources of cash match, and establish a fare revenue policy consistent with local goals will be viewed positively by INDOT.

The ICG will review and rate the operating applications of new applicants and all capital applications using the application review and ranking forms identified in this section. The Section 5311 Program Manager will make a final project ranking taking into consideration the ICG's findings and comments. Based on this ranking, the 5311 Program Manager will make project selections based on the highest scores.

The selected applications and the existing Grantee's operating applications will be listed in the INDOT's Annual Program of Projects (POP). Each capital and operating application will be listed as a separate line item and the funding amounts will be identified. This Program of Projects will then be presented to the INDOT Office of Transit, Manager and FTA for approval.

Notification

Applicants will receive written notification of INDOT's decision. Any applicant not receiving approval of their application may appeal the selection decision to the Manager of INDOT's Transit Office. The process for filing an appeal is as follows:

1. Applicant must send, by certified mail, an appeal within 15 calendar days after receiving notification of INDOT's decision.

Mail To: Indiana Department of Transportation
Transit Office Manager
100 N. Senate Avenue
Indianapolis, IN 46204

2. INDOT will conduct a preliminary review within five working days, and if necessary, request by certified mail additional information from the applicant.
3. INDOT will allow five working days for receipt of additional materials;
4. INDOT's Transit Office manager will make a final decision within 15 working days from the receipt of the appeal request, or within 15 working days from the receipt of additional materials;
5. INDOT will notify the applicant in writing within five working days of its final decision;
6. Applicant may appeal INDOT's final decision in accordance with I.C. 4-21.5-3-1, *et seq.*

Program of Projects

Selected applications and existing grantee's operating applications will be incorporated into a statewide application, or Program of Projects (POP). Each capital and operating application will be listed as separate line items with the funding amounts identified. The POP is then submitted to FTA for approval.

Contract Execution

Once INDOT receives FTA approval of the statewide application, INDOT will execute a grant contract with each applicant. The applicant will then become a grantee. The contract describes the responsibilities of each party. If the grantee is a county, the contract must be signed by the Board of Commissioners or designee and must be attested by the County Auditor. If the grantee is a city, the contract must be signed by the Mayor and attested by the Clerk-Treasurer. If the grantee is a town, the contract must be signed by the President of the Board of Trustees and attested by the Clerk-Treasurer. INDOT, State Budget Agency, Indiana Department of Administration and the Attorney General's Office then sign the contract. The contract execution process takes approximately three months. INDOT returns a copy of the fully executed contract to the grantee with a notice to proceed.

K. FUND TRANSFERS

1. Program Reserve – The State may include funds in program reserve to assist projects that it has not yet identified at the time it submits its grant application to the FTA. The program reserve allows States to obligate its entire annual Section 5311 apportionment at one time. The program reserve funds are to accommodate unanticipated program needs. The State must allocate program reserve funds to specific projects within the period of availability of the funds.
2. New Applicants and Allocation Formula - Any new applicant approved for funding will be added to the funding formula in subsequent years following the second consecutive year of INDOT funding.
3. Disposition of Fund Balance - In the event funding is left in the program reserve balance; it may be programmed as a reserve funding line-item or carried forward and added to the next year's apportionment. Alternatively, fund balances may be used by INDOT to fund special projects or marketing studies, etc. The Governor may transfer the reserve funds to urbanized areas under 200,000 population. Likewise, the Governor may transfer FTA Section 5307 (the urbanized transit program) funds from urbanized areas under 200,000 population to the Section 5311 program. This type of transfer will only occur after consultation with the affected urbanized areas. INDOT will be responsible for notifying the FTA Regional Administrator on each transfer of Section 5311 or Section 5307 funds. In addition, Section 5310 (the capital program for non-profit agencies) funds may be transferred to Section 5311

within the last 90 days of its availability. INDOT does not typically transfer funds between sections. If INDOT were to transfer from Sections 5307, 5310, 5316, or 5317 to Section 5311 it will retain the original program requirements for each program.

Even though authority is provided to the State to transfer Section 5307 funds to 5311 and 5311 funds to 5307, INDOT has chosen not to at this time. If INDOT chooses to initiate a transfer for 5307, 5310, 5316 and 5317 funds to the 5311 program it will provide notice to FTA and will include (1) the amount of funds to be transferred; fiscal year in which funds were apportioned; program section(2); and (3) the INDOT contact information.

L. STATE ADMINISTRATION & TECHNICAL ASSISTANCE

INDOT provides management and technical assistance to small urban and rural public transit providers. INDOT will provide management assistance to help develop knowledgeable transit management and improve the effectiveness of transit operations. Also, INDOT provides a variety of technical assistance in the areas of planning, funding and vehicle and equipment procurement. These areas of assistance are described below:

1. Planning - This type of assistance is available upon request and may include transit feasibility studies, ridership surveys, ridership estimates, routing and scheduling, revenue and cost projections, and an identification of equipment needs.
2. Financing - INDOT will help applicants/grantees identify alternative funding sources as well as assist in preparing grant budgets.
3. Vehicle and Equipment Procurement - Vehicles are purchased through Indiana Department of Administration (IDOA) Quantity Purchase Awards (QPAs). IDOA is responsible for soliciting, reviewing and approving all bids for vehicles. In addition, equipment such as computers may be purchased from state quantity purchase awards.
4. Training - INDOT periodically sponsors seminars, workshops and training sessions on rural transit management and operations. In addition INDOT provides an ongoing program through the Rural Transit Assistance Program, which is explained below.

INDOT technical assistance to rural areas start very early in the planning process, from the development of a feasibility study to the completion of the Section 5311 application. INDOT awards feasibility study grants at 80/20 with the maximum award being \$10,000. Feasibility studies must contain at a minimum a description of the service to be provided, who will provide the service, the cost of providing the service, and the sources of local share.

Each grantee is provided with INDOT's Rural Transit Program Manual which outlines all aspects of a Section 5311 public transportation project including planning, accounting and budgeting, grant application procedures, procurement, property management, reimbursement, and operational data reporting. The manual is each Section 5311 system's management guide for the Section 5311 program.

M. STATE RURAL TRANSIT ASSISTANCE PROGRAM (RTAP)

The Rural Transportation Assistance Program (RTAP) is a comprehensive and flexible program of training, technical assistance, research, and support services for rural public and specialized transit agencies. In 1987 RTAP was authorized by the passage of Section 18(h) of the Federal Transit Act. The RTAP has both a national and a state component. The National RTAP develops services and products of use to rural transit providers nationwide. Each state also receives a RTAP allocation to develop products and services that are state specific in nature. INDOT receives an annual federal allocation to develop and implement its program in conjunction with the Section 5311 Non-urbanized Area Public Transportation Assistance Program. While the RTAP is a portion of the Section 5311 funding, its purpose is somewhat different in nature.

INDOT also offers additional training through RTAP. INDOT's RTAP is available to assist rural and small urban transportation providers with training and technical assistance. The RTAP provides and supports Passenger Assistance Techniques training, Defensive Driving, Employee Substance Abuse, Emergency Procedures, Customer Service, Disability Awareness and provides a scholarship program for agencies to help offset the costs to send staff to training programs. RTAP funding may not be used for administrative, operating or capital assistance.

1. RTAP Program Goals:

- a. To promote the safe and effective delivery of public transit in rural areas and make more efficient use of public and private resources;
- b. To encourage the development of state and local ability for training and technical assistance;
- c. To improve the quality of information and technical assistance available through the development of resource materials;
- d. To facilitate peer-to-peer self help through the development of local networks of transit professionals; and
- e. To support the coordination of public, specialized, and human service transportation services.

2. RTAP Advisory Committee - INDOT has established a RTAP Advisory Committee to provide guidance and ongoing review of program development, implementation, and delivery. The committee is made up of representatives from private non-profit specialized providers, private for-profit providers, public transit providers (Section 5311), and state agencies.

3. RTAP's Relationship to Other FTA Funding Programs:

- a. Section 5311: The Section 5311 program has a direct relationship with RTAP because most rural public transit operators receive Section 5311 capital and operating assistance. Under the Section 5311 program, INDOT uses administrative funds to provide technical and grant assistance to Section 5311 grantees. As such, RTAP is viewed as an extension of this program.
- b. Section 5310: The Section 5310 Program provides capital assistance to non-profit agencies for meeting the special transportation needs of the elderly and persons with disabilities. Many Section 5310 funded agencies provide transportation services in small urban and rural areas. Some of these agencies also receive Section 5311 funding. The agencies providing rural transportation services are also intended to receive assistance through RTAP.

INDOT also coordinates and conducts trainings offered through the National Transit Institute (NTI), the Community Transportation Association of America (CTAA), and other State agencies such as Emergency Management, State Police and Homeland Security. In addition to the above assistance, INDOT can arrange to provide assistance in other functional areas such as marketing and promotion, accounting and reporting, coordination, and personnel and labor relations. Please contact INDOT, Transit Office for further information.

N. PRIVATE SECTOR PARTICIPATION

INDOT requires that sub-recipients make every effort possible to coordinate available resources under operating and capital grants. Sub-recipients must encourage every possible transportation provider (including private-for-profit) to participate in the project. Successful coordination would include the commitment of other local agencies to purchase service, share resources, and use the transit system. INDOT also requires local Transportation Advisory Committees (TAC) include representatives from private transportation providers, if available, to be involved in public transit planning.

O. CIVIL RIGHTS

INDOT will collect Title VI/EEO assurances from subrecipients prior to passing through FTA funds. These Title VI/EEO assurances will be submitted as part of a standard list of assurances provided by subrecipients to INDOT.

State Monitoring of Subrecipients

As part of its monitoring efforts, INDOT will conduct an on-site review of the grantee's project at least once every four years. During this review, INDOT will review the following Title VI/EEO requirements:

- A copy of the agency procedures for tracking and investigating Title VI/EEO complaints.

- A list of any Title VI/EEO investigations, complaints, or lawsuits filed with the agency since the time of the last submission.
- A copy of the agency's notice to the public that it complies with Title VI/EEO and instructions to the public on how to file a discrimination complaint.
- A copy of the agency's plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency's alternative framework for providing language assistance.

P. MAINTENANCE

Vehicle Maintenance - INDOT requires grantees to perform preventative maintenance as recommended by the equipment manufacturer. Qualified personnel should perform all necessary maintenance.

As a condition for accepting Section 5311 vehicles, the grantee must maintain in operative condition those features of vehicles that are required to make the vehicles readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, signage and systems to facilitate communications with persons with impaired vision or hearing.

Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the grantee shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature. This does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

Grantees interested in further information about maintenance should contact the Section 5311 Program Manager and request a copy of the Indiana Preventative Maintenance Manual.

Q. CHARTER RULE

INDOT does not allow Charter Service.

R. SECTION 504 AND ADA REPORTING

INDOT will collect Section 504/ADA assurances from subrecipients prior to passing through FTA funds. These Section 504/ADA assurances will be submitted as part of a standard list of assurances provided by subrecipients to INDOT.

As part of its monitoring efforts, INDOT will conduct an on-site review of the grantee's project at least once every four years. During this review, INDOT will review the following Section 504/ADA requirements:

- Agency's maintenance preventative maintenance schedule for wheelchair lifts/ramps and related equipment
- A list of any Section 504/ADA investigations, complaints, or lawsuits filed with the agency since the time of the last submission.
- Does the agency continue to provide equivalent services to persons with disabilities (Response time, fares, geographic service area, hours and days of service, restrictions on trip purpose, availability of information and reservation capability, and constraints on capacity or service availability)?
- Does the grantee have procedures for investigating and tracking ADA complaints filed against them and making their procedures for filing a complaint available to members of the public upon request?
- Does grantee have written policies regarding transporting of service animals, personal care attendants and portable oxygen?

As part of its monitoring efforts, INDOT will conduct onsite compliance reviews of the subrecipient's project at least once every four years. During this review, INDOT will ensure compliance with the requirements of Title VI, Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE). In addition, applicants (and their third party contractors) make all applicable federal certifications and assurances annually through the 5311 application process.

S. NTD REPORTING

INDOT collects all required National Transit Database (NTD) data in accordance with 49 U.S.C. 5335(a) and (b) and reports this information on an annual basis. In accordance with Section 5311(b)(4), each Section 5311 recipient submits an annual report containing information on capital investment, operations and service provided under Section 5311. INDOT reports include (but are not limited to) total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size and type, and related facilities; revenue vehicles miles; and ridership.

T. STATE PROGRAM MANAGEMENT

REPORTING, MONITORING AND AUDITING

- A. Reporting - INDOT requires all grantees receiving operating assistance to report financial and operating data on a quarterly and annual basis. Failure to provide these reports will result in INDOT withholding future reimbursement requests under the grant agreement. Also, INDOT compiles and publishes an

annual report for all transit systems in the state based on information from this reporting system.

Grantees receiving capital assistance are required to keep appropriate property control records on all equipment and real property. Grantees are responsible for submitting these records to INDOT to meet the capital asset reporting requirement. Federal Office of Management and Budget and Federal Transit Administration guidelines are used in meeting this reporting requirement.

- B. Monitoring - INDOT has undertaken an effort to analyze the compliance practices of its Section 5311 grantees and their subgrantees. INDOT staff provides oversight of program compliance by conducting annual grant reviews, annual site visits, and tri-annual compliance reviews to ensure that 5311 grantees are complying with federal and state regulations. The compliance review involves a comprehensive review of each grantee's practices, which includes a desktop review as well as on-site review. INDOT submits a compliance review report to the grantees. This report documents the findings from the desktop and on-site review and the corrective actions that should be taken to address the findings. Non-compliance items are noted as well as any comments in areas where the system is in general compliance. Included are corrective actions that should be taken to address the areas of non-compliance. Failure to correct areas of non-compliance may result in probationary actions or grant termination in the most severe cases.

Based on the quarterly and annual reports, INDOT evaluates potential problem areas on each Section 5311 transit system. Areas that are identified as possible problem areas are discussed formally through written means or informally through telephone calls with local representatives for explanation and/or resolution.

INDOT has a capital asset database using the property control records prepared by the grantees. This database is used to track capital assets and dispositions, and to cross check information with other reporting systems. In addition, the data base information is used for capital programming, such as determining the number of vehicles reaching the end of their useful life and calculating average prices for certain types of vehicles.

INDOT requires and monitors the grantees compliance with Title VI (Civil Rights), Disadvantaged Business Enterprise (DBE) and Equal Employment Opportunity (EEO) requirements by apprising them of their responsibilities, collecting documentation of compliance via site visits and requesting the submission of applicable reports. Documentation includes but is not limited to: quarterly Disadvantaged Business Enterprise utilization reports, Good Faith Effort documentation, the impact of grantee service provision on minority/disabled population and the employment make up of transit system personnel.

INDOT requires and monitors the conformance with Federal Restrictions on Lobbying through on-site compliance review questions; in addition INDOT will review all applicable procurement documents for the presence of the Lobbying Certification. Lobbying restrictions apply to grants, contracts, and cooperative agreements involving \$100,000 or more (Section 319 of Public Law 101-121).

- C. Financial Management – INDOT and its grantees will dispense and account for program funds in accordance with Indiana Code 5-11-1-2. INDOT financial management practices provide data used to compile current financial reports such as required by FTA Circular 9040.1F. INDOT monitors grantee expenditures, checking for eligibility and conducts periodic site visits of its grantees during which time random invoices are traced throughout the local accounting system.
- D. Auditing and Project Closeout - The grantee is responsible for securing organization-wide or grant specific audits. All audits performed on grantees under the Section 5311 program shall be in accordance with Office of Management and Budget, Circular A-133 (Vol. II, Appendix E of the Section 5311 Program Manual).

The legally authorized auditing body for all grantees (units of local government - cities, counties, towns, etc.) is the State Board of Accounts. Grantees that contract with private companies for transit service must require that these companies provide them with their annual audit. The grantee is responsible for reviewing all sub-contractors' audit reports and appropriately resolving any findings. These sub-contractors' audits must be submitted to INDOT for review and acceptance.

INDOT will initiate project closeout with subrecipients within 90 days after all funds are expended and all work activities for the project are completed. INDOT will initiate Program of Project (POP) closeout with FTA within 90 days after all work activities for the POP are completed. INDOT will electronically submit a final Financial Status Report (SF 269A), final budget, and final POP via the TEAM system at the time of closeout.

E. Procurement

INDOT Section 5311 procurement practices will comply with five specific Federal requirements contained in the current FTA Circular 4220.1. These include the following: 1) for rolling stock, a five year limitation on contract period of performance 2) a requirement for full and open competition 3) a prohibition against geographic preferences 4) the use of Brooks Act procedures for procurement of architectural and engineering services if INDOT has not adopted a statute governing procurement of such services and 5) inclusion in contracts of all Federal clauses required by Federal statutes and Executive Orders and their implementing regulations.

Standards

- a. Competition: All procurement will be conducted in a manner providing for full and open competition.
- b. Code of Conduct: Grantees must have a written code of conduct governing the performance of their employees engaged in the award and administration of contracts. Employees of the grantee shall not participate in selection, award, or administration of contract supported by federal and state funds if a conflict of interest, real or apparent, is involved.
- c. Purchase Review: Grantees must develop a process for reviewing purchases to avoid unnecessary and duplicate items. Consideration must be given to the most economical approach. Where appropriate, an analysis of lease versus purchase shall be made. All grantees are encouraged to use intergovernmental agreements, where possible.
- d. Price or Cost Analysis: Grantees shall perform a price or cost analysis with every procurement, including contract modifications. As a starting point the grantee must make an independent estimate before receiving bids or proposals. Usually a price analysis will be used to determine the reasonableness of the proposed contract price. This may also be established based on the catalog or market price of products sold in substantial quantities to the public, or based on price set by law. A cost analysis is required when the bidder is required to submit the cost elements of his estimated price (e.g., under professional service contracts such as, consulting or architectural and engineering). Also, a cost analysis is necessary when adequate price competition is lacking.
- e. Contract Awards: Grantees shall only make contract awards to responsible and responsive bidders. "Responsible" means a bidder who is capable of performing the contract requirements fully and who has the integrity and reliability that will assure good faith performance. "Responsive" means a bidder who has submitted a bid or quote conforming in material respects to the bid terms, conditions, and specifications. Federal regulations prohibit the use of contractors who have been debarred or suspended. INDOT will monitor adherence to this regulation by way of its compliance reviews and reviewing procurement documents for the presence of the Debarment and Suspension Certification (49 CFR Part 29).
- f. Contracts: All contracts must include all appropriate federal and state clauses. Most of these are identified in the Section 5311 grant assistance contracts between INDOT and the grantees.
- g. Contract Administration: Grantees must maintain a contract administration system, which ensures that contractors perform in accordance with the terms, conditions, and specifications of all purchases.

- h. **Contract Records:** Grantees shall maintain records to sufficiently detail the procurement history. At a minimum this should include the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- i. **Disputes and Protests:** Grantees are responsible for resolving all contractual and administrative issues arising out of procurement. Violations of law should be referred to the proper local authority having jurisdiction. If there is no local authority, the matter should be referred to INDOT. Grantees must have protest procedures to handle and resolve disputes relating to their procurement. A protester must exhaust all administrative remedies with the grantee before pursuing protest with INDOT.

F. Purchasing and Leasing

Most purchases and leases (procurement) made under the Section 5311 program will be made through Sealed Bid (formal advertising) method. All procurement must be conducted in accordance with I.C. 5-22-7. Copies of all Indiana Codes related to procurement are available in Vol. II of the Section 5311 Program Manual.

- a. **Annual Purchases & Leases Over \$25,000:** Purchasing by Sealed Bids is required by state law (I.C. 5-22-7). The formal advertisement (notice) must be published in accordance with Indiana Code 5-3-1 Publication of Notices. Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the lowest responsible and responsive bidder. In addition to the published notice, INDOT strongly recommends direct solicitation to known vendors.

The grantee is responsible for preparing the bid contract and specification, advertising and soliciting bids, receiving and reviewing bids, and awarding the contract to the lowest responsible and responsive bidder.

An exception to the sealed bid requirement is for the development of specifications. A grantee may request proposals (using competitive procurement methods) for the development of specifications which will lead to a sealed bid procurement. The need to request proposals must be documented by the grantee and approved by the grantee's executive officer and INDOT. The resulting specification shall be subsequently issued for bid.

- b. **Annual Purchases and Leases Under \$25,000:** Purchases and leases under \$25,000 are considered small purchases, therefore relatively simple and informal procurement methods may be used. Grantees are allowed two options under this situation:
 - (1) If the grantee has small purchase procedures which meet the intent of I.C. 5-22-8, or which are stricter, then the grantee's procedures

may be followed. If the grantee does not have small purchase procedures, they may invite quotes from at least three vendors known to deal in the type of purchase or lease being made. A copy of the specification should be mailed to the vendor not less than seven days before the time for receiving written quotes.

- (2) The grantee may purchase or lease in the open market without inviting or receiving quotes. However, INDOT does not recommend the use of option 2 except under emergency or severe time constraint situations.
- c. Request for Proposals: Request for Proposals (RFP) is the method generally used when conditions are not appropriate for the use of sealed bids and it is allowed by State law. One situation mentioned earlier is for the development of specifications. Also, a grantee may use the RFP method for the procurement of architectural, engineering, and land surveying services. Services of architects, engineers, and land surveyors must be procured in accordance with Indiana Code 5-16-11.1 and FTA Circular 4220.1E.

If this method is used, the following requirements apply:

- (1) The request must identify:
 - (a) All evaluation factors and their relative importance, including cost as a factor. Please note that cost may not be used as an evaluation factor for architectural and engineering services, in accordance with the federal Brooks' Amendment.
 - (b) Any bonding requirements or other evidence of financial responsibility.
- (2) Solicitation of an adequate number of qualified vendors.
- (3) Grantee must have a method for conducting technical evaluation for the proposals.
- (4) Contract award will be made to the responsible vendor whose proposal is most advantageous to the program.
- d. INDOT purchases all vehicles on behalf of the grantee. INDOT purchases equipment through Indiana Department of Administration (IDOA) Quantity Purchase Awards (QPAs). INDOT develops vehicle specifications for all modified vehicles (low floor mini vans, raised roof vans, body-on-chassis). Prior to solicitation of bids by IDOA, INDOT submits the applicable standard federal clauses to include in the bid documents. IDOA is responsible for soliciting, reviewing and approving all bids for vehicles.

G. INDOT Review

All bid contracts, invitation for bids, and request for proposals for purchases or leases of \$25,000 or greater must be submitted to INDOT for review. In addition, grantees must make all technical specifications available for review, when INDOT believes such a review is needed to ensure that the purchase or lease specified is consistent with the grant award. Also, grantees must make available all procurement documentation upon request by INDOT.

H. VEHICLE & EQUIPMENT USE

Equipment is defined as tangible, non-expendable, personal property having a useful life of more than one year and a unit price of \$300.00 or more. Typically, equipment includes such items as major spare parts, computer systems, communication system major maintenance tools, passenger shelters, etc.

Vehicles and equipment shall be used in the program for which it was acquired as long as it is needed. This is true even if Section 5311 funding does not continue to fund the program. All grantees are required to submit an "annual certificate of use" for all vehicles and equipment acquired under the Section 5311 Program.

The grantee may make vehicles or equipment available for use in other programs or projects currently or previously supported by federal funds. However, this use may not interfere with the work on the program or project for which it was originally acquired. User fees shall be considered in this situation. Federally funded vehicles and equipment may not be used to provide services for a fee to compete unfairly with private companies.

As mentioned above, Section 5311 grantees may not reserve FTA funded vehicles for exclusive use, pursuant to a common purpose and under an itinerary specified in advance without INDOT and FTA approval. Such a service constitutes charter service, and is prohibited. Similarly, a grantee may not engage in exclusive school bus service in competition with private school bus operators. Transportation of school children may be provided where such an operation is open to the public and the provision of services is incidental to the regular transit operation. Guidance on eligible school bus operations is provided in 49 CFR 605. INDOT will monitor grantees for compliance with School Bus Operation regulations.

I. SATISFACTORY CONTINUING CONTROL

INDOT and the grantees must maintain satisfactory continuing control over facilities and equipment and ensure that they are used in transit service. A grantee must demonstrate control and use as required in FTA Circular 5010.1C. INDOT will monitor these stipulations through the compliance reviews. Any change in the use of vehicles or equipment must be approved by INDOT.

1. Management Requirements: The grantee shall provide management records of all vehicles and equipment based on the following, as a minimum effort:

a. Vehicle and equipment control records must be maintained. These records shall include:

- (1) description of vehicle or equipment;
- (2) serial or identification number;
- (3) purchase date and price;
- (4) source of property;
- (5) title holder (owner);
- (6) federal participation;
- (7) physical location;
- (8) current use and condition;
- (9) disposal data; and
- (10) disposal price;

b. A physical inventory of vehicles and equipment must be taken and the results reconciled with the control records at least every two years. A grantee must maintain a listing of a vehicle inventory, peak vehicle requirements and active vehicles.

c. A control system must be developed to safeguard against loss, damage, or theft of vehicles and equipment. Each grantee is required to maintain adequate insurance coverage as required by federal, state and local law.

d. Adequate maintenance procedures and programs must be developed to keep vehicles and equipment in good condition. Preventive maintenance programs are required for all Section 5311 funded vehicles.

J. FACILITY CONSTRUCTION AND RENOVATION

Facility is defined as any building which was constructed in whole or in part with Federal Transit Administration funds. The grantee must determine whether the construction of an administration building, storage facility, garage or other type of construction will have a significant impact on the environment and may proceed only after conducting an environmental impact study or obtaining a categorical exclusion.

Title VI regulations require that grantees perform a Fixed Facility Impact Analysis to assess the potential impact of new construction on minority communities. Such an analysis may be a part of an environmental impact analysis.

Section 5311 grantees must use competitive proposal methods for obtaining architectural and engineering services. Guidance is provided in Federal Transit Administration Circular 4220.1E.

A grantee must maintain procedures for Facility Construction and Renovation. INDOT requires that these procedures include:

1. Adequate staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;
2. A budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits and miscellaneous payments the grantee may be prepared to justify;
3. A construction schedule;
4. Organizational structures, management skills, and staffing levels required throughout the construction phase; and
5. Internal plan implementation and reporting requirements, including cost and schedule control procedures

INDOT will monitor facility construction and renovation projects by requiring monthly submission of project budget and project schedule updates.

Adequate maintenance procedures must be implemented to protect federally funded facilities and ADA accessibility features from damage and deterioration. OMB Circular A-102 stipulates that periodic physical inventory of properties is taken to determine its condition. INDOT will conduct compliance reviews during which time grantees must show documentation of periodic inspections and regular maintenance procedures designed to protect the investment of federal funds.

INDOT will also monitor all transit facilities for compliance with ADA accessibility features. The grantee is responsible for implementing the ADA Accessibility Guidelines found in 49 CFR 37 and providing an accessible environment throughout its facilities. Other aspects of facility accessibility include a transit system's provision for the use of service animals, portable oxygen tanks and personal care attendants. INDOT will review a grantee's written policies and staff training concerning ADA service provisions to determine compliance with 49 CFR 37.161.

K. DISPOSITION

1. Planned Disposition

When vehicles, equipment, and/or real property are no longer needed for the original project or program, disposition of said items must be made in accordance with Indiana Code 36-1-11 Disposal of Real or Personal Property. Real property is defined as land and buildings, including any accessories added to the land or buildings.

Real property and items of equipment with a current per-unit fair market value of less than \$5,000 must be disposed of in accordance with Indiana Code with no further obligation to INDOT. Based on INDOT's useful life policy, vans reaching the threshold of 100,000 miles or four (4) years, INDOT no longer has any financial interest in. INDOT must be notified of all disposition actions.

Real property and equipment with a current per-unit fair market value of \$5,000 or greater must also be disposed of in accordance with the Indiana Code. However, a written disposition plan must be submitted to INDOT for review. Income from the disposition must be retained by the grantee for the transit program. INDOT will track equipment transfers in Program of Project (POP) reports that are submitted to the Federal Transit Administration. Documented evidence that the income is being used for the transit program must be provided to INDOT.

2. Vehicle Disposition

- (a) Disposition actions for vehicles with fair market values of \$5,000 per vehicle or greater must be submitted to INDOT. The preferred method of disposition is the transfer of vehicles to another INDOT grantee. When INDOT is notified that vehicles are available for disposition, INDOT will mail a notice of availability of these vehicles to all current INDOT grantees. The vehicles will be available for 30 calendar days for transfer to other INDOT grantees, in accordance with I.C. 36-1-11. Under a transfer arrangement the grantee, disposing of the vehicles shall receive payment for their pro-rata share of their local investment. This shall be based on the fair market value of the vehicles multiplied by the percent local match. If no other grantee is interested in the vehicles, then they may be disposed of. FTA requires that the proceeds of any disposition actions be used for public transportation. This arrangement is consistent with I.C. 36-1-11 and FTA Circular 5010.1C. If other Section 5311 grantees are interested and obtain a vehicle under this section, INDOT will update the applicable Program of Projects annually, to reflect such equipment transfers.
- (b) Mid-life Sale of Vehicles ("Like-kind Exchange"), Grantees may elect to use the trade-in value or the sales proceeds from a vehicle to acquire a replacement vehicle of a like kind. This option may be undertaken before the end of the useful life of the vehicle. If a grantee chooses to re-invest the proceeds, 100

percent of the net proceeds must be applied to the acquisition of the replacement vehicles.

This new initiative by the Federal Transit Administration, was published in the August 28, 1992 Federal Register. It is known as 49 CFR Change VI-Change in Policy on Sale and Replacement of Transit Vehicles; Rule. This policy change is an effort to stimulate the economy and develop a secondary, used-bus market. It is expected to increase the rate of new vehicle acquisitions, thereby accelerating the introduction of "cleaner" vehicles in terms of air quality and vehicles that comply with the Americans with Disabilities Act.

3. Insurance Settlements

In the event of loss due to casualty, fire, or theft the grantee agrees to apply the insurance settlement to the cost of replacing the damaged or destroyed items taken out of service or if the items are determined to be no longer necessary, then the settlement shall be used for the transit program. An estimate of the insurance settlement must be provided to INDOT to determine the settlement value of the items. Documented evidence that the settlement is being used for the transit program must be provided to INDOT.

4. Determination of Fair Market Value

The fair market value for vehicles and equipment may be determined by the use of the straight-line depreciation method or by the averaging of two independent appraisals. If straight-line depreciation is used for valuing vehicles, then it should be based on the useful life years specified in Subsection D of this plan. We recommend that all vans be valued based on the straight-line depreciation method.

L. PASSENGER VEHICLE CLASSIFICATION AND USEFUL LIFE

1. Vehicle Classification

The INDOT has developed the following passenger vehicle classifications for the Section 5311 Program.

a. Van: Vans are further broken down into four sub-categories:

- (1) Mini-Vans: Seven passenger or less vans that are commercially available from automobile manufacturers as a part of their standard vehicle production line;
- (2) Standard Van: Eight passenger or greater vans that are commercially available from automobile manufacturers as a

part of their standard vehicle production line. This includes maxi-vans;

- (3) Modified Van: A modified van is a standard van or maxi-van that has undergone some body or structural change. Typical changes include a raised top, widened passenger entry door, extended stepwell at passenger entrance, and wheelchair lift; and
 - (4) Body On Van Chassis (BOVC): A passenger Light Transit Vehicle (LTV) built on a van chassis. BOVCs have wider and/or longer bodies installed on a van chassis. Typically these vehicles are built by School Bus and Recreational Vehicle manufacturers.
- b. Body On Truck Chassis (BOTC): This passenger vehicle is similar to the BOVC in that the body is attached to a truck chassis. However, this vehicle is a heavier duty vehicle because it is built on a truck chassis. It is for this reason it is classified separately from a van.
 - c. Transit Bus: A transit bus is designed and manufactured specifically for transit service (i.e., purpose built). The construction of the body and chassis is integrated and normally done by one manufacturer. Most transit buses are diesel powered. Transit buses are broken down into three size sub-categories:
 - (1) Small Transit Bus: Any transit bus under 30 feet
 - (2) Medium Transit Bus: Any transit bus 30 to 34 feet in length.
 - (3) Standard Transit Bus: Any transit bus 35 to 40 feet in length.

2. Vehicle Useful Life

INDOT has developed the following vehicle useful life policy for the purpose of evaluating vehicle disposition requests and capital replacement applications. The useful life policy is shown in **TABLE 1**. However, merely obtaining sufficient miles and years on a vehicle does not guarantee federal capital assistance for its replacement. Section 5311 applications are evaluated competitively based on project justification, coordination, fiscal capabilities, and capital project priorities.

The primary criterion in determining the vehicle useful life is mileage. The age of the vehicle will be considered only after the vehicle's mileage has been determined to be at or greater than the mileage categories listed in **TABLE 1**.

TABLE 1: VEHICLE USEFUL LIFE POLICY

<u>Vehicle Classification</u>	<u>Miles</u>	<u>Years</u>
Taxi (sedan/wagon)	100,000	4
Vans:		
- Mini-Van	100,000	4
- Standard	100,000	4
- Modified	100,000	4
- Body on Van Chassis (BOVC) (LTV)	100,000	4
Body On Truck Chassis (BOTC)	150,000	6
Transit Buses:		
- Small (under 30')	200,000	7
- Medium (30' - 34')	350,000	10
- Standard (35' - 40')	500,000	12

The age of the vehicle is calculated from the date the vehicle is actually placed into service, and not from the vehicle model year. On rare occasions, a grantee may have a vehicle that needs replacement prior to reaching its designated mileage. INDOT will consider these exceptions on a case by case basis.

3. Vehicle Replacement Planning

Grantees are required to develop and submit to INDOT a passenger vehicle replacement plan. The plan shall use the vehicle useful life mileage as the basis for determining the replacement of vehicles. The plan shall cover a five-year period and be updated biennially (after the original submission an updated plan will be due every other year). The plan shall show the number, classification, and the estimated cost of the vehicles to be replaced or added.

M. LOCAL COMPLAINTS

The grantee is required to resolve any complaints from transportation providers resulting from a local decision or interpretation concerning the Section 5311 program. The grantee is required to keep record of correspondence related to the issue, information used in making its decision and the process used in resolving the issue. Also, the grantee must inform the transportation provider of the local appeal process and the transportation provider's rights under the process. If the complaint is not satisfactorily resolved, the originating party may appeal the grantee's decision to INDOT.

All complaints presented to INDOT will be heard by the Section 5311 Program Manager, the Transit Office Manager and the Local Programs Division Director with concurrence by the INDOT Chief of Staff. The originating party must file with INDOT a written request of complaint within 15 calendar days following the grantee's final decision. The complaint request must be made by certified mail and contain a brief description of the issues and copies of all relevant information. INDOT will conduct preliminary

review within five working days and, if necessary, request by certified mail additional information from the originating party or the grantee. INDOT will allow five working days for receipt of additional materials. INDOT will make a final decision within 15 calendar days from the receipt of the complaint request or, if additional material was requested, within 15 calendar days from the receipt of the additional material. INDOT will notify the originating party and the grantee of its decision within five calendar days. INDOT's decision may be appealed in accordance with Indiana Code 4-21.5-3-1, *et seq.*

U. OTHER PROVISIONS

As part of the grant contract, the Subrecipient shall permit INDOT, FTA or any of their authorized representatives, full access to any books, documents, papers, and records relevant to the project. INDOT maintains the right to inspect all project equipment and property. The Subrecipient, INDOT, FTA or any party with a vested interest in the project, may call a meeting to review or discuss project activities.

As part of its monitoring efforts, INDOT will conduct on site compliance reviews of the subrecipient's project at least once every four years. During this review, INDOT will inspect the equipment and related documentation to ensure the subrecipient is compliant in the following areas:

- Eligibility, eligible assistance categories, local match, and audits
- Services and use of project equipment
- Public involvement
- Procurement
- General compliance and assurances
- Civil Rights (Title VI)
- Equal Employment Opportunity (EEO)
- Disadvantaged Business Enterprise (DBE)
- Section 504 and Americans with Disabilities Act (ADA)
- Labor (5333(b))
- Private Sector participation
- Charter Service
- School Bus Service
- Buy America/Pre-Award and Post-Delivery Reviews
- Integrity/Restrictions on Lobbying
- Environmental Protection
- Bloodborne Pathogens

INDOT has established a statewide Drug and Alcohol consortium that is managed under the auspices of the Indiana RTAP program. The RTAP program conducts periodic compliance assessments of subrecipients status with respect to compliance with the requirements of 49 CFR part 655 and 49 CFR part 40, and assist them with the submission of the annual Management Information System (MIS) reports.

**EXHIBIT 1: SECTION 5311 FEASIBILITY STUDY
RATING FORM**

APPLICANT'S NAME: _____

Ratings: Excellent 3, Good 2, Adequate 1, Poor 0

1. Completeness of Study: _____
(Comments)

2. Identification of the need for Public Transit Service: _____
(Comments)

3. Identification of Potential Trip Generator: _____
(Comments)

4. Calculation of Service Demand (Peak and Off-Peak): _____
(Comments)

5. Identification of the Most Appropriate Type of Service: _____
(Comments)

6. Identification of Capital Requirements Needed to Meet Demand: _____
(Comments)

7. Identification of Proposed Public Transit Provider(s): _____
(Comments)

8. Identification of Projected Operating Cost: _____
(Comments)

9. Determination of Degree of Long-Term Local Community Support: _____
(Comments)

10. Identification of Marketing Effort Required for Start-up: _____
(Comments)

TOTAL SCORE: _____

REVIEWER'S NAME: _____

Please return form to INDOT, Transit Office, 100 N. Senate Ave., Indianapolis, IN.
46204-2219.

NOTE: This rating form will be used to evaluate Feasibility Study requests only.

EXHIBIT 2: NEW APPLICANT OPERATING APPLICATION REVIEW AND RATING FORM

APPLICANT'S NAME: _____

		Weight Factor	x	Rating	=	Weighted Score
1.	Completeness of the application and compliance with guidelines and requirements of the application process.	10				
2.	Evidence of demand of local financial support.	25				
3.	Ability of management to administer the grant and meet INDOT's guidelines and requirements and operate a transit system.	20				
4.	Extent to which existing area-wide services, manpower, and equipment are used in the project.	15				
5.	Appropriateness of type of service, level of service, planned improvements/expansion, and equipment.	10				
6.	Actions previously implemented and/or planned to reduce operating costs and improve operating revenue.	10				
7.	Suitability of the existing and/or proposed promotional techniques and programs to reach riders and potential riders.	10				

TOTAL WEIGHTED SCORE (Total points possible: 300) _____

Ratings: Excellent - 3 Good - 2 Adequate - 1 Poor - 0

REVIEWER'S NAME: _____

Please return form to INDOT, Transit Office, 100 N. Senate Ave., Indianapolis, IN. 46204-2219.

NOTE: This rating form will be used to evaluate New Applicant Operating requests only.

**EXHIBIT 3: DISCRETIONARY CAPITAL APPLICATION
REVIEW AND RATING FORM**

APPLICANT'S NAME: _____

	Weight Factor	x	Rating	=	Weighted Score
1. Project Justification: - Vehicle and equipment appropriateness. or - Facilities, expansion, or equipment necessary for continued and/or improved operation?	40				
2. Ability of management to administer the grant and meet INDOT's guide lines and requirements.	30				
3. Extent to which existing area-wide services, manpower, and equipment are used in the project.	20				
4. Completeness of the application and compliance with guidelines and requirements of the application process.	10				

TOTAL WEIGHTED SCORE = _____
(Total points possible: 300)

Ratings: Excellent - 3 Good - 2 Adequate - 1 Poor - 0

COMMENTS: _____

REVIEWER'S

NAME: _____

Please return form to INDOT, Transit Office, 100 N. Senate Ave., Indianapolis, IN 46204-2219.

NOTE: This rating form will be used to evaluate Discretionary Capital requests only.

EXHIBIT 4: PASS – THROUGH AGREEMENT

THIS AGREEMENT made this ____ day of _____, 20__ among (County) Indiana, acting through the ____ (Governing Body of County Commissioners)____ (hereinafter referred to as the "Applicant") and _____ (Service Provider)____, a private nonprofit corporation, (hereinafter referred to as the "Service Provider"), by its duly authorized representative(s), whose mailing address is: _____

WITNESSETH

WHEREAS, the Applicant has made application for the Operating Assistance Program under section 5311 of the Federal Transit Act with the Application incorporated and made a part of this Agreement by reference (see attached "Exhibit A");

WHEREAS, the goals of the Operating Assistance Program are to enhance access to people in non-urbanized areas for purposes such as health care, shopping, education, recreation, public services, and employment;

WHEREAS, the Service Provider has the expertise and desire to provide said transportation; and

WHEREAS, the Applicant has agreed by resolution, or such similar instrument, to subcontract with the Service Provider.

NOW THEREFORE, in consideration of the mutual promises and covenants herein set forth, the Applicant and Service Provider agree as follows:

SECTION I: Purpose

The purpose of this Agreement is to provide for the undertaking of transportation services to the general public in and around _____, Indiana, hereinafter referred to as the "Project," by the Service Provider as outlined in Section I, Paragraph A, Subparagraph 1 of the Application and to state the terms, conditions and mutual understandings of the parties as to the manner in which the Project will be undertaken and completed.

SECTION II: Project Implementation

The Service Provider agrees, based on the Grant Assistance provided, to undertake and complete the Project as described in the Application, filed with the approval of the Indiana Department of Transportation ("INDOT") and the Federal Transportation Administration ("FTA") in accordance with the terms and conditions of this Agreement.

SECTION III: Project Duration

The Service Provider shall commence activities associated with the Project described in the Application from _____, 20__ until _____, 20__, as authorized by FTA and INDOT.

SECTION IV: Level of Funding

Reimbursement to the Service Provider shall be through a cost reimbursement contract. These expenditure levels are contingent upon the necessary State and Federal funds to operate the Project. If State or Federal funding sources are not available and alternative funding cannot be obtained, the Project will be adjusted so as not to incur un-reimbursable expenses.

SECTION V: Eligible Project Expenditures

Project expenditures eligible for reimbursement under the Cost Reimbursement Contract are only for those expenditures which are eligible for Section 5311 reimbursement and are further identified in the budget form accompanying the Applicant's Application.

Federal Office of Budget and Management Circular A-87 (OMB-A87) shall be used as guidance in establishing cost principals applicable to the grant.

SECTION VI: Reimbursement

Eligible Project costs will be reimbursed on a quarterly basis by the Applicant upon presentation of claim voucher, State Form 3211, by the Service Provider.

SECTION VII: Financial Statement

The Service Provider shall submit to the Applicant, at such times as it may require, such financial statements, records, and fiscal documents as may be deemed necessary by FTA and INDOT. Furthermore, the Service Provider shall submit to the Applicant an annual certified audit performed by an independent Certified Public Accountant ("CPA"). The Service Provider shall develop and maintain financial reports which are necessary for the effective control and management of operations and shall maintain financial records required by funding sources in accordance with generally accepted accounting procedures.

SECTION VIII: Audit and Inspection

The Service Provider shall permit the Applicant, INDOT, FTA, or their authorized representative, to inspect all vehicles, facilities and equipment purchased by the Applicant, including those obtained through the Section 5311 Project, all transportation services rendered by the Service Provider by the use of such vehicles, facilities and equipment and all relevant Project data and records. The Service Provider shall also permit the above-named persons to audit the books, records and accounts of the Service Provider pertaining to the Project. Any overpayment to the Service Provider as determined by an audit must be immediately refunded to the Applicant.

SECTION IX: Use of Applicant's Equipment

Any vehicles, equipment or facilities purchased under the Section 5311 Assistance Program and titled in the name of the Applicant, hereinafter referred to as "Capital Assets," are hereby leased to the Service Provider for an annual fee. The vehicles, equipment or facilities covered by this lease shall only be used by the Service Provider for the purpose of transportation services. Any fares, fees or other proceeds, including leases or sub-lease obtained by the Service Provider, shall be used in the performance of the transportation services and shall be reported quarterly to the Applicant. Any such proceeds shall be deducted from the monthly operating costs as allowed.

The Service Provider will maintain proper liability, collision, and property damage insurance for the service provided in the Project.

Upon the release of Capital Assets by FTA and INDOT, or in the event the Project is terminated, the Applicant will transfer ownership of any Capital Assets for which the Service Provider has provided the required local matching funds to the Service Provider.

SECTION X: Consultant Contracts

Contracts for consultant services in excess of \$10,000 must be submitted by the Service Provider for review and prior approval by the Applicant, INDOT and FTA. The Applicant and/or Service Provider will abide by the requirements of FTA Circular 4220.1E (Third Party Contracting Requirements) in procuring services.

SECTION XI: Project Monitoring and Evaluation Data

The Service Provider will provide quarterly and monthly financial and ridership reports to the Applicant. The quarterly and monthly reports shall include revenue and expense statements including a detailed report of expenses by budget category as identified in the Budget Form accompanying the Applicant's Application.

The Service Provider shall provide all data for the monitoring and evaluation of the Project as requested by INDOT and/or FTA. The Service Provider shall provide necessary information such as ridership, vehicle, hours of service, operations costs and revenues when such information is requested by INDOT and/or FTA.

SECTION XII: Changes in Project Scope or Budget

The Service Provider shall immediately notify the State, FTA and the Applicant of any change in conditions, or of any event, which will affect its ability to perform the Project in accordance with the provisions of this Agreement.

SECTION XIII: Labor Protection

Provisions of the Department of Labor Special Section 5333(b) Warranty signed by the Service Provider and the Applicant are hereby incorporated into this Agreement by reference (see attached "Appendix C").

SECTION XIV: Equal Employment Opportunity

In connection with the execution of this Agreement, the Service Provider shall not discriminate against any employee or applicant for employment because of race,

religion, color, sex, or national origin. The Service Provider shall take affirmative action to insure the applicants are employed and treated fairly during their employment. Such action shall include, but not be limited to the following; employment, upgrade, demotion, or transfer, recruitment, or advertising, layoffs, or termination, rate of pay, or other forms of compensation; and selection for training including apprenticeship.

SECTION XV: Non-Discrimination

The Service Provider agrees that as a condition to the Agreement that no otherwise qualified disabled person shall, solely by reason of his/her disability, be excluded from participation in, be denied, the benefits of, or otherwise be subjected to discrimination under this program or activity that receives or benefits from Federal financial assistance administered by the Applicant through funding by the United States Department of Transportation.

SECTION XVI: Civil Rights Act of 1964

The Service Provider shall comply with all requirements imposed under Title VI of the Civil Rights Act of 1964 (78 Stat. 252), as amended, and any and all regulations issued pursuant thereto (CFR Title 49, Subtitle A, Part 21).

SECTION XVII: Section 5311 Program Compliance

The Service Provider shall comply with all other assurances and regulation included in the Section 5311 Program as cited in the Operating Assistance Application.

SECTION XVIII: Termination

The Applicant may, by written notice to the Service Provider, terminate the Project and cancel this Agreement

SECTION XIX: Agreement Changes

Any proposed change in this Agreement must have the approval of both the Applicant and the Service Provider prior to becoming effective.

SECTION XX: Dispute

Any dispute concerning a question of fact in connection with purposes contained within this Agreement shall be referred to the Commissioner of INDOT, whose decision shall be final.

SECTION XXI: Responsibility for Claims and Liability

The Service Provider shall be responsible for and save harmless the Applicant for all damage to life and property due to activities of the Service Provider, its subcontractors, agents or employees, in connection with the execution of the Project.

IN WITNESS WHEREOF, _____ (Service Provider) and
_____(Applicant) have caused this Agreement to be executed in their
respective names.
EXECUTED THIS ____ DAY OF _____, 20__

Date: _____
By: _____ Authorized Representative of
Applicant

Date: _____

Authorized Service Provider Representative

CERTIFICATION OF APPLICANT'S ATTORNEY

I affirm that to the best of my knowledge the Applicant and Service Provider are in total compliance with all items and conditions of the grant agreement executed between the Indiana Department of Transportation and the Applicant, hereby incorporated by reference, and as attached as Exhibit A to this Agreement.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or threatened that might adversely affect the validity of these certifications and assurances or of the performances of the Project. Furthermore, if I become aware of circumstances that change the accuracy of the foregoing statements, I will notify the Applicant, Service Provider and INDOT.

Date: _____

By: _____

